

Additional Information Related to Article 7 -

Sense Of The Meeting - That Boxborough is "A Rural Engaged Community For All" & A Constitutional Community Committed to Preserving the Protections Afforded by The Bill Of Rights

Good background:

In May 2012, the federal government forced Massachusetts to participate in a deportation program named "Secure Communities" (referred to as S-Comm), which automatically transfers information gathered by local police at the point of arrest to Immigration and Customs Enforcement (ICE), the federal agency responsible for enforcing immigration laws, as a way to identify people to deport. As a key part of the program, ICE then asked local police to detain certain individuals for extra time, regularly without a judicial warrant, using "ICE detainer requests." This gave ICE more time to investigate whether the person was, in fact, deportable, and to take them into federal custody. ICE often also sought other methods of using local resources, utilizing local facilities and databases, or directly soliciting information from local police to ensure the transfer of people from local custody to ICE for deportation.

S-Comm has been largely responsible for the record-breaking numbers of deportations under the Obama administration.

Despite S-Comm's stated goals of targeting individuals who have committed serious offenses, ICE's own statistics tell a different story. Most of the people deported under S-Comm had no prior criminal convictions.

And yet the program had a devastating side effect: it drove a wedge between communities and their local police, by making immigrants fear that any contact with police could bring unwanted attention to their immigration status and lead to deportation.

<https://aclum.org/our-work/aclum-issues/immigrants-rights/massachusetts-trust-act/>

The Legal Questions around Immigration Detainers

Law Enforcement Immigration Task Force letter to Senate

http://immigrationforum.org/wp-content/uploads/2015/10/10_15_2015-LEITF-Letter-to-Senate-on-Sanctuary-Cities-Legislation.pdf

"The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program." — Associate Justice Antonin Scalia, *Printz v. United States*, 521 U.S. 898, 935 (1997)

<http://immigrationforum.org/blog/the-legal-questions-around-immigration-detainers/>

Recent court decisions relating to ICE detainers

https://www.aclu.org/sites/default/files/field_document/recent_ice_detainer_cases_2.pdf

NIJC'S DETAINER LITIGATION JIMENEZ MORENO ET AL V. NAPOLITANO ET AL

KEY ISSUES: IMMIGRATION DETAINERS VIOLATE THE U.S. CONSTITUTION

Detainers violate the **Fourth Amendment** because ICE fails to show probable cause before issuing detainers. Immigration detainers instruct LEAs to hold individuals for 48 hours when they would otherwise be released from law enforcement custody. ICE issues detainers based on a preliminary investigation to determine whether an individual is subject to removal. To date, ICE has not followed procedural protections required by the Fourth Amendment to make a showing of probable cause when issuing immigration detainers.

Detainers violate the **Fourth and Fifth Amendment**, because ICE fails to provide notice of the detainer and an opportunity to challenge ICE does not ensure individuals or their attorneys are notified that detainers have been issued against them. ICE provides no constitutionally sufficient means by which individuals can challenge their extended detention.

Detainers violate the **Tenth Amendment**, which contains separation of powers limits that prevent ICE from coercing state and local governments into enforcing federal immigration law through implementing regulations, immigration detainers purport to compel state and local governments to enforce federal immigration law, violating separation of powers limits under the Tenth Amendment. Due to their voluntary nature, state and local LEAs may be held liable for any legal errors in ICE's issuance of immigration detainers.

<http://immigrantjustice.org/sites/immigrantjustice.org/files/Detainer%20Class%20Litigation%20%28April%202014%29.pdf>

<http://www.politifact.com/pennsylvania/statements/2017/jan/31/joe-defelice/phillys-sanctuary-city-status-putting-residents-da/>

<https://billypenn.com/2016/02/29/impossible-to-check-john-fettermans-claim-that-sanctuary-cities-are-safer/>

Philadelphia executive order

<http://www.phila.gov/ExecutiveOrders/Executive%20Orders/eo0516.pdf>

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Interview w/ CA AG

<http://www.npr.org/2017/01/26/511745366/california-attorney-general-vows-to-defend-states-residents-against-trump-polic>

<http://www.governing.com/topics/public-justice-safety/tns-kenney-immigration-philadelphia.html>

Jimenez-Moreno v. Napolitano, 1:11-cv-05452, 2016 WL 5720465 (Sept. 30, 2016) ("The bottom line is that, because immigration officers make no determination whatsoever that the subject of a detainer is likely to escape upon release before a warrant can be obtained, ICE's issuance of detainers that seek to detain individuals without a warrant goes beyond its statutory authority to make warrantless arrests under 8 U.S.C. § 1357(a)(2)."); Galarza v. Szalczuk, 745 F.3d 634 (CA3 2014).

<https://innovationlawlab.org/wp-content/uploads/2016/12/Trump-Threat-Analysis-Oregon-County.pdf>

Oregon Governor Kate Brown's Action to Declare Oregon an Immigrant Inclusive State

<http://www.evmradio.info/klyc/index.php/news/statewide-news/971-bonamici-applauds-oregon-governor-declaration-as-immigrant-inclusive-state>

Oregon Executive Order

https://drive.google.com/file/d/0BzMvBq_LbaUUZDVkZEpfX1lhZTg/view

Local Inclusive Resolutions should not be considered “sanctuary” resolutions or referred to as sanctuary resolutions. Sanctuary, as it is understood in contemporary terms, has been framed as a resistance to federal deportation practices. It is a direct confrontation with the federal government’s exclusive deportation power. Sanctuary, originally a medieval privilege, has been widely used in faith communities to resist federal deportation practices, particularly where the facts of the individual cases indicate that a deportation would be morally unjust. Sanctuary is granted by faith communities or other communities because they object to the legal process. Sanctuary is best viewed as a means of *defying* a morally unjust law. Sanctuary is very useful and powerful in community-based activism. Public-policy should be enacted around disentanglement and inclusion.

<https://innovationlawlab.org/inclusive-oregon/>

An annotated sample resolution. [Download](#)

A legal memorandum supporting the resolution. [Download](#)

A threat analysis for counties and cities. [Download](#)

Messaging from the Frameworks Institute. [Link](#)

Searching for Sanctuary, a Report from the Immigrant Legal Resource Center. [Link](#)

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Eldridge's Bill:

<https://malegislature.gov/Bills/189/Senate/S1258>

Massachusetts Lawmakers Pledge Support for "Sanctuary State" Bill

Eighty one Massachusetts lawmakers signed in support of a bill prohibiting state funds from being used for federal immigration laws.

<http://www.bostonmagazine.com/news/blog/2017/02/17/massachusetts-sanctuary-state-bill/>

Highlights From Court Ruling Halting Trump's Revised Travel Ban

The record before this Court is unique. It includes significant and un rebutted evidence of religious animus driving the promulgation of the Executive Order and its related predecessor.

Any reasonable, objective observer would conclude, as does the Court for purposes of the instant Motion for TRO, that the stated secular purpose of the Executive Order is, at the very least, "secondary to a religious objective" of temporarily suspending the entry of Muslims.

https://www.nytimes.com/2017/03/15/us/politics/highlights-immigration-ruling.html?_r=0

Trump's reaction

"This is a watered down version of the first one, this is a watered down version," he said. "And let me tell you something, I think we ought to go back to the first one and go all the way, which is what I wanted to do in the first place."

<http://www.foxbusiness.com/politics/2017/03/15/trumps-revised-travel-ban-blocked-by-hawaii-judge.html>